Department of Justice

United States Attorney Timothy M. Morrison
Southern District of Indiana

FOR IMMEDIATE RELEASE
Monday, August 17, 2009
http://www.usdoj.gov/usao/ins/

CONTACT: MARY BIPPUS
(317) 229-2403
mary.bippus@usdoj.gov

ROBERT PENN AND KEVEN LAFAVERS INDICTED FOR MORTGAGE FRAUD CRIMES INVOLVING OVER $12,500,000.00 IN FRAUDULENT LOANS

PRESS RELEASE

Indianapolis-Robert Andrew Penn, age 44, formerly of Indianapolis and currently a resident of Naples, Florida and Keven M. Lafavers, age 45, formerly of Indianapolis and currently a resident of Lagrange, Kentucky were indicted by a federal grand jury for mortgage fraud announced Timothy M. Morrison, United States Attorney for the Southern District of Indiana. The Indictment, unsealed today, charges both men with conspiracy to commit wire fraud and wire fraud, relating to mortgage fraud activities in which they allegedly participated between 2003 and 2005. Penn is also charged with conspiracy to commit money laundering. The indictment follows an investigation by Special Agents of the Internal Revenue Service - Criminal Investigation Division and the United States Attorney's Office, with assistance from the Federal Bureau of Investigation.

According to the Indictment, between November 2003 and August 2005, at least 112 fraudulent loans, totaling $12,621,500.00, were allegedly obtained by Penn and his numerous business entities, assisted by Lafavers and others. The loans were obtained from Argent Mortgage Company, The MoneyStation, and People's Choice Mortgage / Countrywide Home Loans.

Seven other individuals were charged in April of this year with participating with Penn and Lafavers in their mortgage fraud crimes. The investigation is continuing as to other individuals and other loans obtained by Penn and his businesses.

According to the Indictment, which was unsealed today, Penn owned and operated numerous business entities which were created and used to illegally obtain loans on residential real estate properties in the Indianapolis area. The Indictment charges that Penn was essentially in charge of the fraud schemes and controlled and directed the activities of all of the other people involved in the illegal activities. Lafavers was employed by Penn to locate properties for sale, negotiate the purchases of those properties, and enter into option agreements and land contracts with the sellers on behalf of Penn and his businesses.

The mortgage fraud schemes charged in the Indictment were accomplished as follows. Participants in the schemes (generally Lafavers) located properties and arranged to purchase them at a fair market value generally by means of an option agreement or unrecorded land contract. Penn, with the assistance of his relatives in Virginia, located straw purchasers who invested their good credit, but no money, to be the purchasers of these properties at a much higher price than that negotiated with the seller. Most of these straw purchasers were unwitting participants in the scheme; the majority were located in Virginia and were friends and relatives of Penn and his family. The straw purchasers generally never saw the properties they were purchasing. They were told, by Penn and others, that they were joining an investment club, that they would not have to make any payments on the properties, and that the properties would be managed for them by scheme participants (including renting the properties and paying all bills). These straw purchasers received money for participating in the investment club, generally \$3,000.00 - 4,000.00 for each property purchased in their name. Mortgage brokers participating in the schemes prepared fraudulent loan applications, containing false statements, including: that the straw purchasers owned bank accounts, stock (in Penn's companies) and other assets which they did not own; that the straw purchasers had income which they did not actually have; and that the straw purchasers were making the down payments on the properties from their own funds. In reality, other participants in the schemes actually provided the down payments for the properties, and were paid a fee of \$1,000.00 - \$3,000.00 for doing so. Appraisers were employed by Penn and his co-conspirators to prepare appraisals which vastly overstated the values of the properties, in order to support the sales price which was ultimately shown on the closing documents. The false loan applications, appraisals, and other fraudulent documents were then submitted to the lenders. The lenders, relying upon the false statements in the loan packages, issued the loans. The loans were funded via wire transfers of money from the lenders to a title company, which the scheme participants used to assist them in preparing false closing documents and issuing title company checks. At the time the loans closed, the properties sold for the fraudulently inflated sales price, and the fraudulently obtained loan proceeds were shared by scheme participants. The sellers were paid the amount they had negotiated to receive, and the co-conspirators shared the excess proceeds. Lafavers, who had located the properties and negotiated their purchase, generally received \$1,000.00 per property located. The loan processors were generally paid \$500.00 for assisting in obtaining the loan. The scheme participant funding the down payment was paid \$1,000.00 - \$3,000.00 for each down payment they loaned. The co-conspirators (relatives of Penn) who recruited the investors and assisted them in signing the loans papers was paid \$1,000.00 per loan. The remaining amounts were split between Penn and his other co-conspirators, and also used to pay existing mortgages on earlier purchased properties to keep the scheme from being detected by the lenders.

Of the fraudulent loans charged, fifteen (15) loans related to the purchase of properties from individual sellers, generally individuals who either did not have their homes listed to sell, or had them listed as "for sale by owner." These loans totaled over $3,000,000.00 and were all issued by Argent Mortgage Company.

The remaining ninety-seven (97) fraudulent loan transactions charged all relate to the sale of duplexes in the Windsor Village neighborhood, located near Arlington Avenue and 21st Street, on the east side of Indianapolis. These properties were all owned by one person, thru various land trusts. Penn negotiated with this individual to purchase all of the duplexes at a price of $50,000.00 each (the last group of these properties actually sold for $60,000.00). Straw purchasers were recruited to purchase each of these duplexes for $120,000.00 each. Inflated appraisals were obtained showing that the properties were worth $120,000.00 each. Immediately prior to the closing of the sale, the original owner transferred the properties via quitclaim deeds to Land Economics LLC, one of Penn's companies. Land Economics LLC was then shown as the seller of the properties on the closing documents and straw purchasers recruited by Penn and his relatives were shown as the buyers. Fraudulent loan packages had been prepared and submitted to the lenders. Co-conspirators (including Penn) funded the down payments. Lenders funded a loan in the amount of $96,000.00 on each of the ninety-seven (97) properties (a total of $9,312,000.00 in loan proceeds). After the properties closed, the original owner was paid his negotiated price (less any appropriate closing costs) and Penn's companies received the remaining proceeds (generally in excess of $70,000.00 for each property). Eight of the Windsor Village loans were funded by Argent Mortgage Company and three of the loans were funded by The MoneyStation. The remaining eighty-six (86) loans were all originally funded by People's Choice Mortgage, a warehouse lender in Kentucky who had a correspondent lending agreement with Countrywide Home Loans in California. Countrywide Home Loans purchased all of these loans shortly after they were funded. All of the Windsor Village properties went into early payment default, that is, no payments were made on the mortgages and the lenders suffered a loss for the entire amount of the loans.

All of the loans involved in the schemes went into default, and the lenders either foreclosed on the homes or took other action, including granting deeds in lieu of foreclosure or allowing short sales of the properties. Many of the duplexes in Windsor Village later re-sold in 2007 and 2008, generally for amounts between $3,500.00 and $15,000.00.

According to Assistant United States Attorney Susan Heckard Dowd, who is prosecuting the cases for the government, Penn faces a maximum possible prison sentence of thirty-five (35) years and a maximum possible fine of $750,000.00. Lafavers faces a maximum possible prison sentence of twenty-five (25) years and a maximum possible fine of $500,000.00.

Penn was arrested on the charges in Naples, Florida on August 7 and is being transported to Indiana by the United States Marshals. He will have an initial appearance before a United States Magistrate Judge when he arrives in Indianapolis. Lafavers was arrested on the charges in Lagrange, Kentucky on August 12 and had an initial appearance before United States Magistrate Judge Kennard P. Foster in Indianapolis. A detention hearing is scheduled for Wednesday. Lafavers is currently in the Marion County Jail. Trial is currently set for both defendants before United States District Court Judge David F. Hamilton on September 21, 2009.

An indictment is only a charge and is not evidence of guilt. A defendant is presumed innocent and is entitled to a fair trial at which the government must prove guilt beyond a reasonable doubt.

###

20090817.Penn.wpd